

## REMARKS

Claims 1-3 and 17-30 are pending. No claims are amended.

Applicant respectfully submits that a Petition under 37 C.F.R. § 1.181 requesting Withdrawal of Finality of the Office Action is concurrently filed.

### **Claim Rejections under 35 U.S.C. §102 (e)**

The Office Action rejects claims 1-3 and 17-30 under 35 U.S.C. §102 (e) as allegedly anticipated by Japanese Patent Abstract JP02001008695. Applicant further submits that in a telephone call on February 5, 2007, the Examiner indicated that she intended to cite the reference under 35 U.S.C. §102(a).

Applicant respectfully submits that, as discussed below, the reference does not qualify as prior art under either 35 U.S.C. §102(e) or 35 U.S.C. §102(a).

#### **35 U.S.C. §102 (e)**

Applicant respectfully submits that 35 U.S.C. §102 (e) sets forth conditions for patentability as follows:

A person shall be entitled to a patent unless -

(e) the invention was described in - (1) an application for patent, published under section 122(b), by another **filed in the United States** before the invention by the applicant for patent or (2) a patent granted on an application for patent by another **filed in the United States** before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

Applicant submits that the Japanese Patent No. JP02001008695 cited by the Examiner is neither an application for patent, published under section 122(b), by another **filed in the United States** nor is it a patent granted on an application for patent by another **filed in the United States**. Therefore, Japanese Patent No. JP02001008695 does not qualify as prior art under 35 U.S.C. §102(e). Applicant requests removal of the rejection.

#### **35 U.S.C. §102 (a)**

Applicant respectfully submits that 35 U.S.C. §102 (a) sets forth conditions for patentability as follows:

A person shall be entitled to a patent unless -

Applicant : Gerardo Castillo et al.  
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(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, **before the invention thereof by the applicant** for patent, or

In the instant case, the cited referenced has a publication date of January 16, 2001. The filing date of the instant application is December 26, 2000. Thus, the reference published after the filing date of the instant application. Therefore, the reference does not qualify as prior art under 35 U.S.C. §102(a).

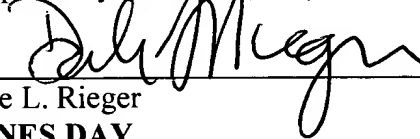
### CONCLUSION

In light of the above remarks, Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney if a telephone call could help resolve any remaining issues.

No fee is believed to be due with this amendment. However, if it is determined that any fees are due, authorization is given to charge any necessary fees to Jones Day Deposit Account No. 50-3013 (Order No. 712576-999002).

Date: April 3, 2007

Respectfully submitted,



Dale L. Rieger

**JONES DAY**

222 East 41st Street

New York, New York 10017

(858) 314.1200

(Reg. No. 43,045)